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December 23, 2024

VIA ECF

Honorable Lewis A. Kaplan
United States District Judge
Southern District of New York
500 Pearl Street
New York, NY 10007

Re: *In re Customs and Tax Administration of the Kingdom of Denmark
(Skatteforvaltningen) Tax Refund Scheme Litigation*, 18-md-2865 (LAK)¹

Dear Judge Kaplan:

We write on behalf of plaintiff Skatteforvaltningen (“SKAT”) to update the Court that SKAT will not pursue at trial one its allegations that the defendants misrepresented to SKAT that the pension plans were tax-exempt, qualified plans under U.S. law. As such, SKAT withdraws its proposed jury instructions nos. 27 (IRC – Exclusive Benefit Rule), 28 (IRC – Permanency Requirement), 29 (IRC – Plan Funding Requirements), and 30 (IRC – Unrelated Business Taxable Income). SKAT also notes that this impacts its description of the alleged misrepresentations in proposed instructions nos. 9 (Verdict Form) and 10 (Fraud Claims), and the description of the U.S.-Denmark tax treaty in proposed instruction no. 23 (U.S.-Denmark Tax Treaty).

Separately, as a result of the settlement and resulting voluntary dismissal of SKAT’s claims against Michael Ben-Jacob, SKAT also notes that section 6 of the parties’ proposed special verdict form (questions nos. 74-87) and questions nos. 107 and 108 in section 8.a (Statute of Limitations) are no longer needed; Mr. Ben-Jacob’s name should be removed from question no. 102; and the following six pension plans should be removed from the charts in questions nos.

1. This letter relates to the trial one cases: 18-cv-07828; 19-cv-01785; 19-cv-01867; 19-cv-01893; 19-cv-01781; 19-cv-01783; 19-cv-01866; 19-cv-01895; 19-cv-01794; 19-cv-01865; 19-cv-01904; 19-cv-01798; 19-cv-01869; 19-cv-01922; 19-cv-01800; 19-cv-01788; 19-cv-01870; 18-cv-07827; 19-cv-01791; 19-cv-01792; 19-cv-01928; 19-cv-01926; 19-cv-01868; 18-cv-07824; 19-cv-01929; 19-cv-01803; 19-cv-01806; 19-cv-01906; 19-cv-01801; 19-cv-01894; 19-cv-01808; 19-cv-01810; 19-cv-01809; 18-cv-04833; 19-cv-01911; 19-cv-01898; 19-cv-01812; 19-cv-01896; 19-cv-01871; 19-cv-01813; 19-cv-01930; 18-cv-07829; 18-cv-04434; 19-cv-01815; 19-cv-01818; 19-cv-01931; 19-cv-01918; 19-cv-01873; 19-cv-01924; 19-cv-10713.

1-3: AOI Pension Plan; Ganesha Industries Pension Plan; Alden Investments Pension Plan; Carrick Holdings Pension Plan; Mazagran Pension Plan; and Pleasant Lake Productions Pension Plan.

Respectfully submitted,

/s/ Marc A. Weinstein

Marc A. Weinstein

cc: all counsel of record (via ECF)